

The Honorable Richard F. McDermott
Noted for Hearing: **Wednesday, January 8, 2003 8:45 a.m.**

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

"JANE DOE" (a pseudonym); and
MICHAEL F. OSBORNE, on behalf of
"REBECCA DOE" (a pseudonym), a minor,

Plaintiffs,

v.

THE CORPORATION OF THE
PRESIDENT OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY
SAINTS, a Utah corporation sole, aka the
"MORMON CHURCH" and "JOHN ROE"
(a pseudonym),

Defendants.

NO. 02-2-04105-1KNT

DECLARATION OF
RICHARD A. MITCHELL

RICHARD A. MITCHELL declares and states as follows:

1. I make this declaration on the basis of personal knowledge and am competent to testify to the matters herein.

2. I am a resident of Des Moines, Washington.

3. I am well-acquainted with the ecclesiastical structure of The Church of Jesus Christ of Latter-day Saints as a church, as well as the structure of the local

DECLARATION OF
RICHARD A. MITCHELL - 1

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EXHIBIT 2

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1 congregations and other ecclesiastical subdivisions. I have been a member of the
2 Church my entire life, and have served in numerous leadership positions in various local
3 congregations of the Church. I was stake president of the Federal Way Stake of The
4 Church of Jesus Christ of Latter-day Saints between 1990 and 1999.

5 4. The Church of Jesus Christ of Latter-day Saints ("the Church") is an
6 international church with over 11 million members living in approximately 166 countries
7 and territories. The Church is governed hierarchically, with its worldwide headquarters
8 in Salt Lake City, Utah. The First Presidency (consisting of the President of the Church
9 and his two counselors) and the Quorum of the Twelve Apostles are the Church's
10 highest ecclesiastical bodies. They make binding pronouncements on matters of
11 Church doctrine, and establish ecclesiastical policy for the entire Church. They are
12 assisted by other general and area ecclesiastical authorities.

13 5. In the doctrine and polity of the Church, wards and stakes are self-
14 governing, autonomous ecclesiastical entities within the larger Church. Although the
15 First Presidency has general jurisdiction over the entire Church, its influence on
16 members in local congregations operates almost exclusively through the establishment
17 of general Church policy and by the dissemination of doctrinal sermons and writings.
18 The vast majority of Church members interact with the Church exclusively through their
19 local congregations; it is rare for a Church member or local leaders to have any direct
20 contact with the First Presidency or Quorum of the Twelve Apostles.

21 6. Local congregations of the Church are called "wards." Several wards in a
22 particular geographical area constitute a "stake." The ecclesiastical leader of a ward is
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1 called a "bishop." The ecclesiastical leader of a stake is called a "stake president." The
2 Church has over 26,000 wards and 2,600 stakes throughout the world. Local
3 clergymen exercise broad discretion over local Church affairs as they implement the
4 Church's programs pursuant to ecclesiastical policies.

5 7. Bishops and stake presidents are volunteer, lay clergymen who serve the
6 Church without any pay, without conventional ecclesiastical training (*e.g.*, they do not
7 attend a formal religious seminary for clergy), and for a limited term of office while still
8 maintaining their chosen secular careers. They are not professional clergymen whose
9 lives are controlled and directed by the Church. They are not employed by the Church
10 or any affiliated institution. They are not trained professional counselors. They are,
11 however, ordained clergymen.

12 8. The selection of bishops is essentially a local affair. A bishop is chosen by
13 a stake president from among the ward's membership according to the stake
14 president's understanding of the needs of a particular ward and the will of God. The
15 bishop is then approved by a vote of the entire congregation prior to his ordination by
16 the stake president. Stake presidents are similarly selected and ordained by a visiting
17 general authority of the Church and approved by a vote of all stake members.

18 9. Bishops and stake presidents serve temporary, limited terms -- roughly
19 five and nine years, respectively. Thereafter, bishops and stake presidents are relieved
20 of their ecclesiastical duties and authority and return to their former status as members.
21 Once "released," bishops and stake presidents cease to have any ecclesiastical
22 authority over, or responsibility for, other members; they return to being members of
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1 their respective wards. Another member of the congregation is then "called" to serve as
2 the next bishop or stake president.

3 10. Bishops and stake presidents have general ecclesiastical authority over
4 the members of their congregations. The bishop spiritually ministers to ward members
5 regarding matters affecting the members' spiritual well-being. The bishop also has
6 primary responsibility for the ecclesiastical operation of the ward and for all ordinances,
7 sacraments, worship services and other meetings that occur within the congregation,
8 consistent with Church doctrine and policies. The stake president assists in ministering
9 to members and has oversight responsibility for ecclesiastical operations in the stake.

10 11. Church wards and stakes function because of the voluntary service of
11 members who participate in various ways, according to the congregation's needs.
12 Generally, all willing adult men and women have some sort of responsibility (a "calling")
13 within the local ward or stake. For example, some play the organ or lead music. Many
14 men and women assist with teaching children during Sunday meetings in the ward's
15 "Primary" organization. Others instruct teenagers in the Young Women and Young Men
16 programs, teach adult classes, or fill secretarial assignments. Each calling in a ward or
17 stake is temporary, and assignments are rotated frequently to give all adult members a
18 range of opportunities for service and personal growth. The fact that a member holds a
19 calling is neither remarkable nor a sign that the member enjoys some special spiritual
20 status or prestige.

21 12. Bishops and stake presidents have exclusive authority to staff their
22 respective wards and stakes, pursuant to Church-wide ecclesiastical policies and the
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1 dictates of the Holy Spirit. Neither the First Presidency nor any general ecclesiastical
2 authority at Church headquarters has any involvement with issuing callings in local
3 wards and stakes.

4 13. Bishops and stake presidents also administer ecclesiastical discipline
5 whereby errant members (not just clergy) who have committed serious sins may be
6 excommunicated (thereby losing membership in the Church) or "disfellowshipped"
7 (thereby losing good standing in the Church, though retaining formal membership) with
8 a view to helping the sinner recognize the gravity of his or her sins, pursue forgiveness
9 and spiritual healing, and demonstrate renewed commitment to keeping the
10 commandments of God. Again, Church headquarters plays no role in local Church
11 disciplinary matters. A person disciplined at the local level can appeal after the fact to
12 the First Presidency to review the decision.

13 14. While bishops and stake presidents counsel with members regarding
14 disciplinary matters and their general spiritual well-being, the clergymen are not
15 professional social service counselors. As stated, they are laymen, without professional
16 training or licensing, who volunteer to perform these spiritual ministrations.

17 15. In accordance with Church doctrine, bishops and stake presidents provide
18 religious and spiritual counseling, guidance, and admonition to assist sinners in
19 forsaking and making amends for wrongful conduct (in addition to merely receiving
20 penitential admissions of guilt); to enlighten members in moral choices and life
21 decisions of religious importance; and to comfort those who suffer. In my experience,
22 members who suffer abuse, family turmoil, or other personal tragedies frequently seek
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1 pastoral guidance and comfort, often because they blame themselves or feel as if they
2 have some sin to confess. In all of these religious contexts, it is impossible to separate
3 out just one part of the communication (a single "penitential confession," for example)
4 from the larger process of religious and spiritual counseling, guidance, and admonition;
5 all counseling focuses on bringing the member into harmony with God.

6 16. The doctrine of the Church imposes on bishops and stake presidents a
7 "solemn duty to keep confidential all information that members give them in confessions
8 and interviews." (Church Handbook, at 22 attached hereto as Exhibit A). This doctrine
9 facilitates open and free communication between members and clergy. Indeed, under
10 the doctrine of the Church, disclosure of such confidences by a bishop or stake
11 president would jeopardize the ability of the member truly to repent of sin, obtain moral
12 guidance, or seek spiritual solace.

13 17. Whenever a bishop or stake president encounters a member in need of
14 social counseling beyond pastoral guidance or comfort, he refers the member to a local
15 professional counselor. The Church refers members to a separately incorporated
16 institution—LDS Family Services—that provides professional counseling services to
17 abuse victims and others, regardless of their ability to pay. LDS Family Services is
18 registered to do business in Washington (there are offices in Renton and Spokane), and
19 to my knowledge all counselors employed by the agency are professionally licensed as
20 social service counselors. Whenever a bishop of stake president refers a member for
21 such counseling (whether to LDS Family Services or another counselor in the
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community), the bishop or stake president continues to address the member's spiritual needs while the member receives professional counseling from another source.

18. As stated, I served as stake president of the Federal Way Stake of the Church during the time period at issue in this case, from my ordination in 1990 to when I was released from my calling in 1999. I now serve as a home teacher. I received no remuneration from the Church in any form for my service as stake president.

19. During my entire service as stake president, I maintained, full time, my career as a dentist. I operated my own dental practice—Richard A. Mitchell, D.D.S. P.S.—until I retired two years ago, and I am skilled and experienced in that profession. This was my sole means of livelihood.

20. I am not now and have never been paid, employed, licensed or trained as a social service counselor or social worker, nor have I ever held myself out as a professional counselor.

I certify under the laws of the State of Washington and of the United States that the foregoing is true and correct.

Signed at TUKWILA, Washington this 21 day of NOVEMBER, 2002.


 RICHARD A. MITCHELL

DECLARATION OF
 RICHARD A. MITCHELL - 7

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Church Handbook of Instructions

Book 1
Stake Presidencies and Bishoprics

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

Interviews and Counseling

The stake president or bishop should counsel members privately in his office. When meeting with a woman, he should ask a priesthood holder to be in an adjoining room, foyer, or hall. He should avoid circumstances that might be misunderstood.

The stake president or bishop should avoid making decisions for those he counsels. Instead, he helps them make their own decisions with the Lord's guidance. He also helps them analyze and resolve problems or questions in the context of the doctrines of the gospel and the plan of salvation.

When counseling, the stake president or bishop asks questions to help him understand the member's situation, though he should avoid unnecessary probing. Questions usually should bring out feelings and thoughts rather than *yes* or *no* replies. Members should do most of the talking.

While members talk, the stake president or bishop should listen carefully, giving full and sincere attention. Listening is vital in establishing confidence and trust. People often need someone they trust to listen to them as they work through their challenges and problems.

If a member has transgressed, the stake president or bishop firmly and lovingly helps him or her repent. He teaches that repentance includes having a broken heart and contrite spirit, recognizing and forsaking sin, seeking forgiveness, making restitution, and demonstrating a renewed commitment to keep the commandments. If necessary, he imposes informal Church discipline or initiates formal discipline. He should be familiar with the circumstances that may necessitate Church discipline and the procedures for initiating it.

When counseling members, the stake president and bishop help them take preventive action to resist temptations. For example, members who are courting, are having difficulty in their marriages, are separated or divorced, and are struggling with minor moral problems may be protected and strengthened by counseling designed to help them guard against transgression. Presiding officers need not wait for members to seek such help, but may call them in for counseling.

If a member needs professional counseling or therapy, the stake president or bishop should select or recommend a professional who will work in harmony with gospel teachings and principles. Leaders may work through LDS Social Services where it is available.

No priesthood officer is to counsel a person whom to marry. Nor should he counsel a person to divorce his or her spouse. Those decisions must originate and remain with the individual.

When a marriage ends in divorce, or if a husband and wife separate, they should always receive counseling from Church leaders. One or both may also need Church discipline if they have committed serious transgressions in connection with the divorce or separation.

The stake president or bishop may give a priesthood blessing if the member who is being counseled sincerely wants one.

Keeping Confidences

During and after their term of service in a calling, leaders must keep confidences about matters discussed when interviewing and counseling. A breach of confidence can damage trust, testimonies, and faith. A leader must not discuss confidential matters with others, including his counselors and wife, unless he receives consent from the person he is interviewing or counseling. If the bishop or a counselor in the stake presidency encounters matters that need to be discussed with the stake president, he should explain this to the member and refer the member to the stake president without delay.

Responding to Abuse

While interviewing or counseling a person, a priesthood leader may become aware of incidents of abuse of a child, spouse, or other person. Abuse cannot be tolerated in any form. Guidelines for responding to abuse are provided on pages 157–58.